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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/043,799
Filing Date	01/09/2002
First Named Inventor	Mihcael E. Tompkins
Group Art Unit	2121
Examiner Name	TBD

Total Number of Pages in This Submission **6**

Attorney Docket Number **BALIN-59231**

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ENCLOSURES (check all that apply)

Technology Center 2100

☒ Fee Transmittal Form

☒ Fee Attached

☐ Amendment / Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Response to Missing Parts/ Incomplete Application

☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

☐ Assignment Papers (for an Application)

☐ Drawing(s)

☐ Licensing-related Papers

☒ Petition

☐ Petition to Convert to a Provisional Application

☐ Power of Attorney, Revocation Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) _____

☐ After Allowance Communication to Group

☐ Appeal Communication to Board of Appeals and Interferences

☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please identify below):

Postcard

Remarks



24201

PATENT TRADEMARK OFFICE

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm
or
Individual name

John V. Hanley, FULWIDER PATTON LEE & UTECHT, LLP

Signature

Date

03/26/2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date:

3/26/2002

Typed or printed name

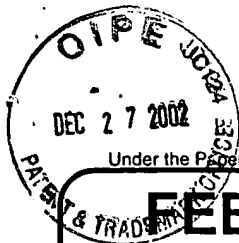
John V. Hanley

Signature

Date

03/26/2002

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PTO/SB/17 (10-01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$) 130.00

Complete if Known

Application Number	10/043,799
Filing Date	01/09/2002
First Named Inventor	Michael E. Tompkins
Examiner Name	TBD
Group Art Unit	2121
Attorney Docket No.	BALIN-59231

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 06-2425
Deposit Account Name: Fulwider Patton et al.

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17
☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☒ Payment Enclosed:

☒ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
105	130	205	65	Surcharge - late filing fee or oath
127	50	227	25	Surcharge - late provisional filing fee or cover sheet
139	130	139	130	Non-English specification
147	2,520	147	2,520	For filing a request for ex parte reexamination
112	920*	112	920*	Requesting publication of SIR prior to Examiner action
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action
115	110	215	55	Extension for reply within first month
116	400	216	200	Extension for reply within second month
117	920	217	460	Extension for reply within third month
118	1,440	218	720	Extension for reply within fourth month
128	1,960	228	980	Extension for reply within fifth month
119	320	219	160	Notice of Appeal
120	320	220	160	Filing a brief in support of an appeal
121	280	221	140	Request for oral hearing
138	1,510	138	1,510	Petition to institute a public use proceeding
140	110	240	55	Petition to revive - unavoidable
141	1,280	241	640	Petition to revive - unintentional
142	1,280	242	640	Utility issue fee (or reissue)
143	460	243	230	Design issue fee
144	620	244	310	Plant issue fee
122	130	122	130	Petitions to the Commissioner
123	50	123	50	Processing fee under 37 CFR 1.17(q)
126	180	126	180	Submission of Information Disclosure Stmt
581	40	581	40	Recording each patent assignment per property (times number of properties)
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))
179	740	279	370	Request for Continued Examination (RCE)
169	900	169	900	Request for expedited examination of a design application

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

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Technology Center 2100

SUBMITTED BY

Name (Print/Type) John V. Hanley

Registration No. (Attorney/Agent) 38,171

Complete (if applicable)

Telephone 310-824-5555

Signature

John V. Hanley

Date 03/26/2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



Please acknowledge receipt of our Petition to Make Special and Statement in Support of Petition along with transmittal forms and filing fee \$130.00 in re application of:

Inventor: Michael E. Tompkins, et al.
Serial No.: 10/043,799
Filed: January 9, 2002
Title: SPA CONTROL SYSTEM
Due:
Mailed: March 26, 2002
JVH:kst
BALIN-59231

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Technology Center 2100

Please acknowledge receipt of our Petition to Make Special and Statement in Support of Petition along with transmittal forms and filing fee \$130.00 in re application of:

Inventor: Michael E. Tompkins, et al.
Serial No.: 10/043,799
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Title: SPA CONTROL SYSTEM
Due:
Mailed: March 26, 2002
JVH:kst
BALIN-59231





#3

PATENT
BALIN-59231**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Michael E. Tompkins, et al.

Serial No. 10/043,799

Filing Date: January 9, 2002

For: SPA CONTROL SYSTEM

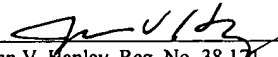
Date: March 26, 2002

Examiner: TBD

Art Unit: 2121

Certificate of Mailing Under 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on March 26, 2002.


John V. Hanley, Reg. No. 38,171**PETITION TO MAKE SPECIAL BECAUSE OF
ACTUAL INFRINGEMENT (37 C.F.R. § 1.102 AND M.P.E.P. § 708.02)****RECEIVED**

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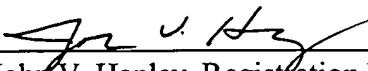
Technology Center 2100Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicant hereby petitions to make this application special because of actual infringement. Accompanying this petition is a Statement by Assignee in Support of Petition to Make Special Because of Actual Infringement. Also enclosed is a fee to cover this petition. Authorization is hereby made to charge any additional fees required by this paper or credit any overpayment to our deposit account number 06-2425. A duplicate of this paper is attached.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
John V. Hanley, Registration No. 38,171

JVH:kst
Enclosures
6060 Center Drive, Tenth Floor
Los Angeles, California 90045
(310) 824-5555; (310) 824-9696 facsimile
#230887



PATENT
BALIN-59231

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Michael E. Tompkins, et al.

Serial No. 10/043,799

Filing Date: January 9, 2002

For: SPA CONTROL SYSTEM

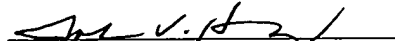
Date: March 26, 2002

Examiner: TBD

Art Unit: 2121

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John V. Hanley, Reg. No. 38,171

**STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL
BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)**

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Technology Center 2100

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, David Cline, am the President of Balboa Instruments, Inc., 1382 Bell Avenue, Tustin, CA 92780, an assignee of this case and make the following statements:

1. I have made a rigid comparison of the MSPA and SSPA model spa controls with the claims of this application. Such products are currently being sold by Gecko Electronique Inc.
2. That, in my opinion, claims 35-40, 45-52, 54-59 and 64-71 on file in this application are unquestionably infringed.


SERIAL NO.: 10/043,799

PATENT
BALIN-59231

3. I have caused to be made searches of the pertinent prior art. All such material art identified has been provided to the Examiner in Information Disclosure Statements filed in this case.

4. That I believe all the claims in this application as on file are allowable.

Date: 03/21/2002



David J. Cline
President, Balboa Instruments Inc.

#230889

075878

FULWIDER PATTON LEE & UTECHT, LLP

DATE	INVOICE NO. OR REFERENCE	AMOUNT		BALANCE
3/26/02	BALIN 59231	130.00	1231	
TOTALS ➡		130.00		

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FULWIDER PATTON LEE & UTECHT, LLP
ATTORNEYS AT LAW
6060 CENTER DRIVE, 10th FLOOR • (310) 824-5555
LOS ANGELES, CA 90045

DATE
3/26/02

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ORDER OF

Commissioner for Patents


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